

ORIGINAL

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF GEORGIA 2010 JUL 29 A 9 18

DUBLIN DIVISION

U.S. DISTRICT COURT

CLERK *S. McCarthy*

LUTHER JAMES CLAYTON,

Plaintiff,

v.

MARY ALSTON, Doctor, et al.,

Defendants.

CV 309-042

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**ORDER**

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After a careful, *de novo* review of the file, the Court concurs with the Magistrate Judge's Report and Recommendation, to which objections have been filed (doc. no. 36).<sup>1</sup> Accordingly, the Report and Recommendation of the Magistrate Judge is **ADOPTED** as the opinion of the Court. Therefore, Defendants' Motion to Dismiss (doc. no. 17) is **GRANTED IN PART** and **DENIED IN PART**. Defendants Harman, Hobby, and Brown, as well as Plaintiff's claims concerning the incision and swelling in his right knee and the cancellation of his soft shoe profile, are **DISMISSED**. Plaintiff's request for monetary damages against Defendant Alston in her official capacity is **DISMISSED**. Additionally, Plaintiff's motions

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<sup>1</sup>Defendants filed a response to Plaintiff's objections. (Doc. no. 37.)

(doc. nos. 21, 22) are **GRANTED IN PART** and **DENIED IN PART**. To the extent Plaintiff requests that he be allowed to proceed with his case against Defendants Harman, Hobby, and Brown, his request is denied. To the extent Plaintiff requests that his claims for deliberate indifference to his serious medical needs against Defendant Alston in her individual capacity be allowed to proceed, his request is granted.

SO ORDERED this 29<sup>th</sup> day of July, 2010, at Augusta, Georgia.

  
UNITED STATES DISTRICT JUDGE